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1924

MUNICIPAL COURTS

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A vote of "yes" would not improve fishing, but would prevent forever any development of the river by the state or by individuals. The power resources that would thus be rendered useless and wasted aggregate the huge total of 500,000 horsepower.

Within forty miles of ocean transportation on the lower Klamath River, there can be developed about 200,000 horsepower, better in quality and greater in quantity than the Muscle Shoals project in Tennessee. Practically every industry possible of development at Muscle Shoals can be developed in connection with these lower Klamath water powers in even greater degree.

The development of the Klamath River water powers will require expenditures for construction in excess of \$75,000,000 and the power when developed will add \$25,000,000 yearly to the taxable wealth of the state. Many millions of dollars will be spent by industries taking advantage of the cheap power thus available right at tidewater.

California industries and California farms, crying for additional cheap power can not be shut off from this great source.

California has little or no coal, its oil production has passed its peak, and is diminishing, and its future hope for industrial and agricultural prosperity depends not merely on hydro-electric power, but on cheap hydro-electric power.

The State Division of Water Rights and the Federal Power Commission, expert bodies created by law, to pass judgment on these matters, are on record favoring power development on the Klamath. Both, after exhaustive hearings and investigations, have satisfied themselves that fishing can be protected, perhaps even improved by the great lakes created by dams necessary to develop the river.

The catch of salmon on the Klamath represents only about eleven per cent of the total taken in California and only one-seventh of the total pack of the Pacific coast.

Practically all of the Klamath to be developed is in the United States Forest Reserves, which insures the privilege of fishing to the people for all time.

Development of great industries on the Klamath will mean work for thousands of salary and wage earners, the addition of scores of millions of dollars to the state's wealth.

Constructive conservation demands a vote of "NO."

R. J. WADE,

Secretary, Eureka Chamber of Commerce.

FRED M. KAY,

County Clerk, Humboldt County.

MUNICIPAL COURTS. Senate Constitutional Amendment 25. Amends Sections 1, 5, 11, 12, 14, 18, 23 and 24 of Article VI of Constitution, relating to courts and their jurisdiction, by providing therein for the establishment of municipal courts as courts of record in any city or city and county and for their jurisdiction for the establishment of appellate departments of the superior court in any county or city and county wherein any municipal court is established.

YES

NO

(For full text of Amendment see page 17, Part II.)

Argument in Favor of Senate Constitutional Amendment No. 25.

The purpose of this amendment is to afford the more populous cities of the state the opportunity to relieve the congestion of the superior courts of the counties in which they are situated and to economically expedite the administration of law and justice therein by the establishment of municipal courts. Such courts, under the proposed amendment would be available only to chartered cities of a population of 40,000 or over, and their establishment could be optional and could only be affected by a vote of the people in such cities.

The amendment, if adopted, would have no effect whatever upon any of the courts of other cities or any city within the designated class which did not by popular vote elect to establish a municipal court, careful attention having been paid in the drafting of the amendment to avoid any interference with, or disturbance of, the existing judicial system

of the state and the present jurisdiction of the courts in those cities which do not seek to avail themselves of the advantages offered by the proposed municipal courts.

It is proposed that municipal courts shall be courts of record and have original civil jurisdiction of \$1,000 or less, including actions for the foreclosure of liens on personal property and unlawful detainer actions in which the monthly rental value of the property is \$100 or less and the damage claimed is \$1,000 or less, and of all misdemeanor crimes committed within the city and punishable by a fine or jail sentence or both.

Upon any municipal court, with such number of departments as may be required, being established in any eligible city pursuant to a vote of the people thereof, the justices' court and police courts of such city with their present limited jurisdiction would automatically become merged in the municipal court and the justices of the peace and police judges of the former court would thereupon become judges of the municipal court until the expira-

tion of their terms, at which time they or their successors would be elected as judges of the municipal court.

Judges of the municipal court would be required to have been admitted to practice before the Supreme Court of California for at least five years immediately preceding their election or appointment, the same qualification that is proposed for the judges of all courts of record.

The amendment, if adopted, will authorize the legislature to provide the necessary statutory enactments for carrying the constitutional provision into effect and prescribing the practice and procedure of, and method of appeals to, and from, the municipal courts. The legislature would also be vested with power to fix salaries of judges of the municipal

pal court and all other courts of record to the same extent that it now possesses in relation to judges of the superior courts.

The establishment of municipal courts will greatly expedite the work of the superior courts, as well as lessen the ever increasing expense of their maintenance. They have been established and thoroughly tested in Chicago and other large cities, and have proved highly satisfactory as a tribunal where justice is rendered quicker, and made less expensive to a large percentage of litigants.

HARRY A. CHAMBERLIN,
State Senator Thirty-first District.

FRANK M. CARR,
State Senator Thirteenth District.

POLL TAXES. Assembly Constitutional Amendment 47. Amends Section 12 of Article XIII of Constitution. Declares Legislature shall provide for levy and collection of an annual educational poll tax of not less than five dollars on every male inhabitant of this state over 13 twenty-one and under fifty years of age, except those holding honorable discharge or discharged under honorable circumstances from United States army, navy or marine corps, those paying real or personal property tax amounting to at least five dollars per annum, paupers, idiots, insane persons and imbeciles; such poll tax to be paid into state school fund.

YES

NO

(For full text of Amendment see page 20, Part II.)

Argument in Favor of Assembly Constitutional Amendment No. 47.

According to statistics there are 356,888 aliens within the State of California. Of this total, 51,191 are Japanese, 19,564 Chinese, 2097 Hindus, and more than 100,000 Mexicans.

But few of these aliens own property, real or personal, upon which they pay any tax. Yet they receive the benefits of our schools, libraries, courts, hospitals, roads and the general and wholesale benefits meted out and enjoyed by the citizens of this state. Nothing in the way of protection or privilege is denied them.

Then why should they not contribute toward the maintenance of these privileges and this protection?

The educational poll tax provides a plan whereby those adult male aliens who pay no personal or real estate tax to the amount of \$5 shall pay an educational tax of that amount, which money so collected shall be placed to the credit of the school funds of the state. Under the present conditions such collections would add approximately \$1,000,000 to the funds available for school purposes.

Migratory schools are now being maintained to reach the children of just such people as those who would have to pay this tax. Is it not just that the expense of these "extra" schools be met by those receiving their benefits?

FRANK JOHNSON,
Assemblyman Fifty-fourth District.

Argument in Favor of Assembly Constitutional Amendment No. 47.

The theory of taxation of the founders of this government was that every person should contribute to the support of it, under the rule that "those who enjoy shall pay." This theory has been gradually defeated till now only those who own real property pay taxes for the support of the county government and the public schools.

A man may have millions of dollars invested in mortgages or other securities, he may have numerous children, but still he pays nothing for the administration of the law in his county nor does he assist in educating his children.

Numerous foreigners are educating their children at the taxpayers' expense and they contribute nothing.

The return of the poll tax would reach both of these classes of people and the money so raised would go directly into the school fund, and I believe that they would take pride in being able to say that they are helping to support the schools.

Those who are ineligible to citizenship can not own property, so under our present system they would never pay, but by a per capita tax they would be reached.

The money raised would lighten the burden of taxation on real property and encourage the artisans to build and own their own homes. With our present high tax rate it is cheaper to rent than to own a home.

[Fifteen]

of this section; and all laws in relation to such taxes in force at the time of the adoption of this section shall remain in force until changed by the legislature. *Until the year 1918* the state shall reimburse any and all counties which sustain a loss of revenue by the withdrawal of railroad property from county taxation for the net loss in county revenue occasioned by the withdrawal of railroad property from county taxation. The legislature shall provide for reimbursement from the general funds of any county to districts therein where loss is occasioned in

such districts by the withdrawal from local taxation of property taxed for state purposes only.

(g) No injunction shall ever issue in any suit, action or proceeding in any court against this state or against any officer thereof to prevent or enjoin the collection of any tax levied under the provisions of this section; but after payment action may be maintained to recover any tax illegally collected in such manner and at such time as may now or hereafter be provided by law.

KLAMATH RIVER FISH AND GAME DISTRICT. Initiative measure.

Creates Klamath River Fish and Game District consisting of Klamath River and waters thereof following its meanderings from confluence of Klamath and Shasta rivers in Siskiyou County to mouth of Klamath River in Del Norte County. Prohibits the construction or maintenance of any dam or other artificial obstruction in waters of said district, prescribes penalties therefor, and declares any such artificial obstruction to be a public nuisance.

YES

NO

Sufficient qualified electors of the State of California present to the secretary of state this petition and request that a proposed measure, as hereinafter set forth, be submitted to the people of the State of California for their approval or rejection, at the next ensuing general election.

The proposed measure is as follows:

PROPOSED LAW.

Initiative act to create the Klamath River Fish and Game District, and prohibit the construction or maintenance of any dam or other artificial obstruction in the waters of said district, provide penalties and declare such obstructions a public nuisance.

The people of the State of California do enact as follows:

Section 1. The Klamath River Fish and Game District is hereby created and shall consist of the Klamath river and the waters thereof, following its meanderings from the confluence of the Klamath river and the Shasta river in the county of Siskiyou to the mouth of the Klamath river in Del Norte county.

Sec. 2. Every person, firm, corporation or company who constructs or maintains any dam or other artificial obstruction in any of the waters of said Klamath River Fish and Game District is guilty of a misdemeanor and upon conviction must be fined not less than five hundred dollars (\$500.00) or be imprisoned in the county jail of the county in which the conviction shall be had, not less than one hundred days, or by both such fine and imprisonment, and any artificial obstruction constructed, placed or maintained in said district is hereby declared to be a public nuisance.

MUNICIPAL COURTS. Senate Constitutional Amendment 25. Amends

Sections 1, 5, 11, 12, 14, 18, 23 and 24 of Article VI of Constitution, relating to courts and their jurisdiction, by providing therein for the establishment of municipal courts as courts of record in any city or city and county and for their jurisdiction for the establishment of appellate departments of the superior court in any county or city and county wherein any municipal court is established.

YES

NO

Senate Constitutional Amendment No. 25—A resolution to propose to the people of the State of California an amendment to the constitution of the State of California, by amending sections one, five, eleven, twelve, fourteen, eighteen, twenty-three and twenty-four of article six thereof, relating to the judicial department, and providing for the establishment of municipal courts.

The legislature of the State of California, at its regular session commencing on the eighth day of January, one thousand nine hundred twenty-three, two-thirds of all the members elected to each of the two houses of said legislature voting in favor thereof, hereby propose that sections one, five, eleven, twelve, fourteen, eighteen, twenty-three and twenty-four of article six of the constitution of the State of California be amended to read as follows:

PROPOSED AMENDMENT.

(Proposed changes in provisions are printed in black-faced type.)

Section 1. The judicial power of the state shall be vested in the senate, sitting as a court of impeachment, in a supreme court, district

courts of appeal, superior courts, such municipal courts as may be established in any city or city and county, and such inferior courts as the legislature may establish in any incorporated city or town, township, county or city and county.

Sec. 5. The superior courts shall have original jurisdiction in all cases in equity and in all cases at law, which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases, except as hereinafter provided, in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars, and in all criminal cases amounting to a felony, and in all cases of misdemeanor not otherwise provided for; of actions for forcible or unlawful entry or detainer, except as otherwise provided in this article; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of divorce and for annulment of marriage; and of all such special cases and proceedings as are not otherwise provided for; and said courts shall have the power of naturalization, and to issue papers therefor.

The superior courts shall have appellate jurisdiction in such cases arising in municipal and other inferior courts in their respective counties

or cities and counties as may be prescribed by law. The legislature may, in addition to any other appellate jurisdiction of the superior courts, also provide for the establishment of appellate departments of the superior court in any county or city and county wherein any municipal court is established, and for the constitution, regulation, jurisdiction, government and procedure of such appellate departments, and for the hearing and determination by district courts of appeal of causes in which judgment has been rendered by the superior court or an appellate department thereof; provided, however, that the appellate jurisdiction of appellate departments of the superior court and of district courts of appeal shall not extend to the hearing and determination of actions at law in which the demand, exclusive of interest, is less than three hundred dollars, nor to actions of forcible or unlawful entry or detainer when the rental value is twenty-five dollars or less per month, and in which the whole amount of damages claimed is two hundred dollars or less. Superior courts and municipal courts shall always be open, legal holidays and non-judicial days excepted. The process of superior courts shall extend to all parts of the state; provided, that all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon real estate, shall be commenced in the county in which the real estate, or any part thereof, affected by such action or actions, is situated. Said superior courts, and their judges, shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus on petition by or on behalf of any person in actual custody, in their respective counties. Injunctions and writs of prohibition may be issued and served on legal holidays and non-judicial days. The process of any municipal court shall extend to all parts of the county or city and county in which the city is situated where such court is established, and to such other parts of the state as may be provided by law, and such process may be executed or enforced in such manner as the legislature shall provide.

Sec. 11. In any city and county and in any city which is governed under a charter framed and adopted under the authority of this constitution containing a population of more than forty thousand inhabitants, as ascertained by the last preceding census taken under the authority of the congress of the United States, a municipal court may be established as in this article provided, anything in this constitution to the contrary notwithstanding. For each such municipal court at least one judge shall be elected by the qualified electors of the city or city and county at the general municipal election, and such additional judges as shall be determined by the legislature. In any city, or city and county, in which there shall be more than one judge of a municipal court, the judges of such court may hold as many sessions of such court at the same time as there are judges thereof, and the business thereof shall be apportioned among the judges thereof in the manner prescribed by law. Municipal courts shall have original jurisdiction, except as hereinafter provided, in all cases at law in which the demand, exclusive of interest, or the value of the property in controversy, amounts to one thousand dollars or less, and of actions of forcible or unlawful entry or detainer where the rental value is one hundred dollars or less per month, and where the whole amount of damages claimed is one thousand dollars or less, and in cases to enforce and foreclose liens on personal property where the amount of such liens or the value of the property is one thousand dollars or less, and in all criminal cases amounting to misdemeanor punishable by fine and imprisonment in the city or city and county or county jail, or punishable by fine or such imprisonment. The legislature may, however, provide for the establishment of courts inferior to municipal courts in cities and counties where municipal courts are established; provided, however, that the jurisdiction of such inferior courts shall not extend

to cases in which the claim or demand is more than fifty dollars.

The legislature shall determine the number of each of the inferior courts in incorporated towns and in townships or counties, or in incorporated cities or cities and counties, where there is municipal court, according to the population thereof, and the number of judges or justices thereof, and shall fix by law the powers, jurisdiction, duties and responsibilities of each of such inferior courts and of the judges or justices thereof, and until such inferior courts are otherwise so determined and provided for, such inferior courts now existing shall, until otherwise provided by law, continue in all respects as established at the time of the adoption of this amendment; provided, that the powers of such inferior courts shall not in any case trench upon the jurisdiction of the several courts of record, except that the legislature shall provide that said courts shall have concurrent jurisdiction with the superior courts in cases of forcible or unlawful entry or detainer, when the rental value does not exceed seventy-five dollars per month, and where the whole amount of damages claimed does not exceed three hundred dollars, and in cases to enforce and foreclose liens on personal property when neither the amount of liens nor the value of the property amounts to three hundred dollars.

The legislature shall provide by general law for the constitution, regulation, government and procedure of municipal courts, and for the jurisdiction thereof except in the particulars otherwise specified in this section, and for the establishment of municipal courts in cities or cities and counties governed under charters framed and adopted under the authority of this constitution, and having the population hereinbefore in this section specified. Upon the taking effect of such general law, a municipal court may be established in any such city or city and county whenever the charter thereof or amendment to such charter shall provide that there shall be a municipal court therein, or whenever the assent of a majority of the qualified electors of such city or city and county voting upon the question of the establishment of such municipal court, and expressed in such manner and form as the legislature shall by general law prescribe, is given to the establishment thereof. The manner in which, the time at which, the term for which the judges, clerks and other attaches of municipal courts shall be elected or appointed, the number and qualifications of said judges and of the clerks and other attaches, except as such matters are otherwise provided in this article, shall be prescribed by the legislature. The compensation of the justices or judges of all courts of record, shall be fixed and the payment thereof prescribed by the legislature.

In any city or in any city and county where such municipal court has been established, and in townships situated in whole or in part in such city or city and county, there shall be no other court inferior to the superior court except as herein provided; and pending actions, trials, and all pending business of inferior courts within such city or city and county or township, upon the establishment of any such municipal court, shall unless otherwise provided by law be transferred to and become pending in such municipal court, and all records of such inferior courts be transferred to and thereafter be and become records of such municipal court.

Upon the establishment of any such municipal court, and until the first election and the qualification of the judge or judges thereof and the first appointment and the qualification of the clerks and other attaches thereof, the judges or justices and the clerks and other attaches of any existing inferior courts in such city or city and county or township shall become and act as the judges, clerks and attaches respectively of such municipal court. Whenever any city having a municipal court is formed into a consolidated city and county with the combined powers of city and county, under proceedings therefor elsewhere in this constitution provided, such municipal court shall thereupon and thereby be

and become the municipal court of such city and county, and the provisions of this article applicable to municipal courts in cities shall be applicable to the municipal court of such city and county.

Sec. 12. The supreme court, the district courts of appeal, the superior courts, the municipal courts and such other courts as the legislature shall prescribe, shall be courts of record.

Sec. 14. The county clerks shall be ex officio clerks of the courts of record, other than municipal courts, in and for their respective counties or cities and counties. The legislature may also provide for the appointment, by the several superior courts, of one or more commissioners in their respective counties, or cities and counties, with authority to perform chamber business of the judges of the superior courts, to take depositions, and to perform such other business connected with the administration of justice as may be prescribed by law.

Sec. 18. The justices of the supreme court, and of the district courts of appeal, and the judges of the superior courts and of the municipal courts shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected or appointed, and no justice or judge of a court of record shall practice law in any court of the state during his continuance in office.

Sec. 23. No person shall be eligible to the office of a justice of the supreme court, or of a district court of appeal, or of a judge of a superior court, or of a municipal court, unless he shall have been admitted to practice before the supreme court of the state for a period of at least five years immediately preceding his election or appointment to such office.

Sec. 24. No justice of the supreme court nor of a district court of appeal, nor any judge of a superior court nor of a municipal court shall draw or receive any monthly salary unless he shall make and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his court remains pending and undetermined that has been submitted for decision for a period of ninety days. In the determination of causes all decisions of the supreme court and of the district courts of appeal shall be given in writing, and the grounds of the decision shall be stated.

EXISTING PROVISIONS.

(Provisions proposed to be repealed are printed in italics.)

Section 1. The judicial power of the state shall be vested in the senate, sitting as a court of impeachment, in a supreme court, district courts of appeal, superior courts and such inferior courts as the legislature may establish in any incorporated city or town, township, county, or city and county.

Sec. 5. The superior court shall have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest or the value of the property in controversy amounts to three hundred dollars, and in all criminal cases amounting to felony, and cases of misdemeanor not otherwise provided for; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of divorce and for annulment of marriage; and of all such special cases and proceedings as are not otherwise provided for, and said court shall have the power of naturalization, and to issue papers therefor. *They shall*

have appellate jurisdiction in such cases arising in inferior courts in their respective counties as may be prescribed by law. They shall be always open (legal holidays and non-judicial days excepted), and their process shall extend to all parts of the state; provided, that all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon real estate, shall be commenced in the county in which the real estate, or any part thereof, affected by such action or actions, is situated. Said courts, and their judges, shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus, on petition by or on behalf of any person in actual custody, in their respective counties. Injunctions and writs of prohibition may be issued and served on legal holidays and non-judicial days.

Sec. 11. The legislature shall determine the number of each of the inferior courts in incorporated cities or towns, and in townships, counties, or cities and counties, according to the population thereof and the number of judges or justices thereof, and shall fix by law the powers, duties and responsibilities of each of such courts and of the judges or justices thereof; provided, *such powers shall not in any case trench upon the jurisdiction of the several courts of record, except that the legislature shall provide that said courts shall have concurrent jurisdiction with the superior courts in cases of forcible entry and detainer, where the rental value does not exceed twenty-five dollars per month, and where the whole amount of damages claimed does not exceed two hundred dollars, and in cases to enforce and foreclose liens on personal property when neither the amount of liens nor the value of the property amounts to three hundred dollars.*

Sec. 12. The supreme court, the district courts of appeal, the superior courts, and such other courts as the legislature shall prescribe, shall be courts of record.

Sec. 14. The county clerks shall be ex officio clerks of the courts of record in and for their respective counties, or cities and counties. The legislature may also provide for the appointment, by the several superior courts, of one or more commissioners in their respective counties, or cities and counties, with authority to perform chamber business of the judges of the superior courts, to take depositions, and perform such other business connected with the administration of justice as may be prescribed by law.

Sec. 18. The justices of the supreme court, and of the district courts of appeal, and the judges of the superior courts shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected.

Sec. 23. No one shall be eligible to the office of a justice of the supreme court, or of a district court of appeal, or of a judge of a superior court, unless he shall have been admitted to practice before the supreme court of the state.

Sec. 24. No judge of the supreme court nor of a district court of appeal, nor of a superior court, shall draw or receive any monthly salary unless he shall make and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his court remains pending and undecided, that has been submitted for decision for a period of ninety days. In the determination of causes all decisions of the supreme court and of the district courts of appeal shall be given in writing, and the grounds of the decisions shall be stated. *When the justices of a district court of appeal are unable to concur in a judgment, they shall give their several opinions in writing and cause copies thereof to be forwarded to the supreme court.*